

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

LARRY JOHN CURLEE,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 1:20-cv-00145-SAB

ORDER DENYING PLAINTIFF’S SECOND
MOTION FOR RECONSIDERATION OF
ORDER DENYING PLAINTIFF’S SOCIAL
SECURITY APPEAL

(ECF Nos. 43, 44)

I.

INTRODUCTION

Plaintiff Larry John Curlee (“Plaintiff”), proceeding *pro se* and *in forma pauperis*, initiated this action January 29, 2020, seeking judicial review of a final decision of the Commissioner of Social Security (“Defendant”) to deny his request to review the administrative law judge’s (“ALJ”) dismissal of his request for a hearing. On April 1, 2022, the Court denied Plaintiff’s social security appeal and entered judgment for Defendant. (ECF Nos. 40, 41.) On April 11, 2022, Plaintiff filed a motion for reconsideration of the Court’s order. (ECF No. 42.) The Court construed Plaintiff’s motion as a motion for reconsideration pursuant to Federal Rule of Civil Procedure 59(e) and denied the motion. (ECF No. 43.)

Currently before the Court is Plaintiff’s filing titled “addendum to motion for

1 reconsideration of order denying Plaintiff’s social security appeal pursuant to Rule 60”
2 (capitalizations removed), which the Court construes as a second motion for reconsideration of
3 the Court’s order denying his Social Security appeal. (ECF No. 42.) For the reasons set forth
4 below, Plaintiff’s motion is DENIED.

5 II.

6 STANDARD OF LAW

7 As the Court previously noted, a motion for reconsideration under Federal Rule of Civil
8 Procedure 59(e) “should not be granted, absent highly unusual circumstances, unless the district
9 court is presented with newly discovered evidence, committed *clear error*, or if there is an
10 intervening change in the controlling law.” McDowell v. Calderon, 197 F.3d 1253, 1255 (9th Cir.
11 1999) (emphasis in original). Indeed, “reconsideration of a judgment after its entry is an
12 extraordinary remedy which should be used sparingly.” Id. at 1255 n.1. Further, “[a] motion for
13 reconsideration may *not* be used to raise arguments or present evidence for the first time when
14 they could reasonably have been raised earlier in the litigation.” Marlyn Nutraceuticals, Inc. v.
15 Mucos Pharma GmbH & Co. (Marlyn), 571 F.3d 873, 880 (9th Cir. 2009) (emphasis in original)
16 (internal quotations omitted).

17 III.

18 DISCUSSION

19 The Court denied Plaintiff’s first motion for reconsideration because Plaintiff’s arguments
20 did not constitute “newly discovered or previously unavailable evidence,” “an intervening change
21 in controlling law,” or specific circumstances so “highly unusual” as to require reconsideration to
22 “prevent manifest injustice,” but instead impermissibly sought to relitigate the underlying merits
23 of Plaintiff’s claim. (ECF No. 43.) Plaintiff’s second motion for reconsideration again reiterates
24 prior arguments. (ECF No. 44.) In support of his underlying claims, Plaintiff attaches
25 correspondences and other documents relating to his social security claim dating back to 2018,
26 which were included in the administrative record considered by the Court when it denied
27 Plaintiff’s appeal. (See id. at 4–14.) Plaintiff’s reassertion of prior arguments and “evidence”
28 previously submitted before this Court is not well-taken.

1 The Court finds reconsideration is unwarranted for the exact same reasons previously
2 articulated. (See ECF No. 43.) In sum, nothing in Plaintiff's motion for reconsideration indicates
3 any manifest errors of law or fact, newly discovered evidence, or highly unusual circumstances
4 that would compel a different result. Allstate Ins. Co. v. Herron, 634 F.3d 1101, 1111 (9th Cir.
5 2011). Nor has Plaintiff shown that granting the motion is necessary to prevent manifest
6 injustice. Id. Accordingly, Plaintiff again fails to establish he is entitled to the extraordinary
7 remedy provided for under Rule 59(e). Accordingly, the second motion for reconsideration shall
8 be denied. Further, Plaintiff is reminded that, even though he is proceeding *pro se*, he is
9 nevertheless bound by the rules of procedure. King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987).
10 Therefore, no further filings are permitted, and no orders will issue in response to any future
11 filings in this case.

12 **IV.**

13 **CONCLUSION AND ORDER**

14 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff's second motion for
15 reconsideration (ECF No. 44) is DENIED. The Clerk of the Court is DIRECTED to disregard
16 any further filings by Plaintiff in this closed matter.

17 IT IS SO ORDERED.

18 Dated: April 20, 2022

19 
20 UNITED STATES MAGISTRATE JUDGE